

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of

IP- Enabled Services

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WC Docket No. 04-36

**COMMENTS OF
THE ALLIANCE FOR PUBLIC TECHNOLOGY ET AL.**

The Alliance for Public Technology (“APT”) and the undersigned organizations (“joint commenters”) welcome the opportunity to comment on the above-captioned Notice of Proposed Rulemaking (NPRM) regarding services and applications making use of Internet Protocol (IP), including but not limited to voice over Internet protocol (VOIP) services (collectively, “IP-enabled services”).

APT is a nonprofit organization comprised of public interest groups and individuals that has been highlighting the need for ubiquitous deployment of advanced telecommunications services throughout our nation since 1989.

Introduction

IP-enabled services offer exciting new possibilities for expanding the way we communicate, but only if everyone has affordable quality access to these services. The Commission must continue to require all providers of voice services, regardless of the technology over which the service is delivered, to meet the social obligations and public interest goals that have been the hallmarks of our nation’s telecommunications policy. In particular, the Commission must establish a regulatory framework that ensures that all

providers of voice services, including those providing IP-enabled voice services, are subject to meeting the social obligations of universal service, disability access, public safety and consumer protections.

Regulations Must be Technology Neutral

The Commission must ensure that any regulatory framework that is adopted for IP-enabled services be technology neutral so as not to favor any particular platform. All IP-enabled services should be subject to the same rules based on how they offer the service and how they connect to the public network. Regulatory equality among all providers in the broadband market fosters investment in high capacity network services that provide life-enhancing applications to:

- Bring better and more affordable health care to all citizens;
- Expand educational opportunities for lifelong learning;
- Enable independent living for senior citizens and people with disabilities;
- Create opportunities for jobs and economic advancement, as well as the ability to control one's own finances;
- Make government more responsive to all citizens; and
- Simplify access to communications technology.

Carriers Should be Required to Meet Social Obligations, Regardless of Service Definition

The issue of whether IP-enabled services should be treated as either a telecommunications or information service highlights the inherent problem of squeezing new services into old definitions. Neither telecommunications service nor information

service is an appropriate classification for IP-enabled services and other advanced services.¹ This proceeding provides the Commission with the opportunity to develop an entirely new definition and framework for advanced services, because IP-enabled services encompass both the functions of information services and the transport of telecommunications services.

The Commission should embrace the term “advanced telecommunications capability,” found in Section 706 of the Telecommunications Act of 1996 for the classification of broadband services, including IP-enabled services, as a logical starting place for building a new policy framework. The Commission must then develop the necessary regulations for maintaining universal service, disability access, public safety and consumer protections for IP-enabled services, while eliminating provisions that would unnecessarily burden their development.

The following principles should guide the Commission as it adopts rules to promote the deployment of VOIP services consistent with meeting social obligations in a broadband world.

Universal Service Should Apply to VOIP Services

As a service that is functionally equivalent to plain old telephone service, IP-enabled voice service providers (VOIP) must contribute to the universal service fund to ensure affordable access to telecommunications services for all Americans. The public switched network is still the backbone of this country’s communications, and as more consumers migrate from traditional wireline carriers to VOIP carriers the revenues that

¹ As APT offered in *Comments of the Alliance for Public Technology in the Matter of Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities*, April 15, 2002 at page 3.

are currently assessed to support universal service will decline substantially. Without appropriate regulatory measures to include contributions to universal service from IP-enabled voice service providers, universal service support will be severely weakened.

VOIP Services Should Meet the Obligations of Section 255

Section 255 of the Telecommunications Act of 1996 mandates that telecommunications services be accessible and usable for people with disabilities. These provisions must equally apply to VOIP. If VOIP is treated as an information service, the question arises whether VOIP providers are subject to such provisions as Section 255 accessibility requirements. Interestingly, in its Disability Access Order, the Commission relied on Title I to apply Section 255 obligations to providers of voicemail and interactive menu services, both of which were deemed “information services.”² If the FCC ultimately deems VOIP to be an information service, it should follow this precedent. Similarly, while the Commission notes that current or future IP-enabled services may facilitate communications by individuals with disabilities more effectively than traditional technologies, the Commission must apply Section 225 to “ensure that interstate and intrastate Telecommunications Relay Service are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.”³ VOIP carriers must also meet equivalent obligations as other voice telecommunications carriers to contribute to funding the Telecommunications Relay Service (TRS) to ensure accessible telecommunications service for people with hearing and speech disabilities. We strongly recommend that, to

² Disability Access Order, 16 FCC Rcd 6417 (1999).

³ IP Relay Order, 17 FCC Rcd at 7783, para. 10.

the extent that IP-enabled service offerings are covered by a new regulatory regime, the Commission ensure that usability and interoperability standards can be invoked when these services are first being designed and developed and that complaint processes are incorporated which allow persons with disabilities to readily determine entities responsible for carrying out Section 255 compliance.

VOIP Providers Should Meet Public Safety Requirements

The Commission must also ensure that VOIP providers are subject to the same requirement to provide E-911 services to customers as are other telecommunications providers. The FCC requirement that wireless carriers provide E-911 has lead to the development of technology and funding to make this possible today. In fact, twenty-five percent of calls to 911 are made over wireless phones. It is critical that this requirement continue as telecommunications technology develops.

It is also essential to public safety that VOIP carriers provide back-up power in the network in case there is a power outage. It is our understanding that VOIP provided over cable networks does not provide back-up power, and would be subject to failure in the event of an electrical power outage. As we all witnessed in the summer 2003 power outage that affected much of the northeastern and Midwestern United States, only those people who had wireline telephones that were plugged in to the network were able to maintain telephone communications during the outage once cell phone and portable phone batteries failed. This was because the wireline circuit-switched telephone network has back-up power built into the network itself. As we transition to Internet-based

communications networks, public safety will be severely threatened without a requirement that VOIP carriers maintain back-up power in the network.

FCC Should Require VOIP Providers to Meet Consumer Protection Obligations

Consumers have expectations that VOIP services are fundamentally equivalent to telephony services. For example, VOIP provider Vonage advertises that it is “like the home phone service you have today.”⁴

These expectations extend to consumer protections. Regardless of the classification of voice IP-enabled services, the Commission must ensure that all providers of voice telephony, including VOIP carriers, provide the basic consumer protections that are currently being offered by voice service providers. These include, but are not limited to, licensing, slamming and cramming, privacy, advance notification of change in or termination of service, and other obligations. Licensing, or at least notification to the Commission that a provider is offering IP-enabled services, is important for research and data collection purposes, as well as the consumer complaint process.

Regulations Must Promote Access and Deployment

Whatever regulatory framework the Commission adopts, it must encourage the ubiquitous access and deployment of IP-enabled services. There is a clear parallel between the goals of promoting ubiquitous access and deployment of IP-enabled services with the Section 706 mandate for deployment of advanced telecommunications capability to all Americans. A regulatory framework based on Section 706 will remove current burdens while continuing to protect consumers and promote deployment.

⁴ Vonage web site, http://www.vonage.com/learn_tour.php (visited May 20, 2004)

Conclusion

In summary, the Commission is compelled by statute, Commission precedent and good public policy to ensure that the ultimate beneficiaries of IP-enabled services are consumers. The many organizations that have joined together to file these comments share the excitement in the potential of new technologies like VOIP to improve the provision of education, lifelong learning, healthcare, government services, participation of people with disabilities and economic growth in all regions of our country. IP-enabled services will create vast new possibilities to enhance the way Americans communicate and participate in our political, economic, and civil life. As telecommunications evolves in the broadband world, we urge your support for public policies that ensure that all Americans reap the benefits from these new technologies by protecting programs that ensure universal service, access for people with disabilities, public safety, and other consumer protections. We look forward to working with you in support of policies that protect the public interest in a broadband environment.

Respectfully submitted,

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By: _____/S/
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American Foundation for the Blind
Association of Tech Act Projects
Communications Workers of America
Community Action Partnership
Deaf and Hard of Hearing Consumer Advocacy Network
Delta State University Center for Community and Economic Development
Department for Professional Employees, AFL-CIO
EDUCAUSE
Gray Panthers
Institute for the Study of Politics and Media at California State University,
Sacramento
Justice and Witness Ministries, United Church of Christ
Latino Education Project
MAAC Project
National Association of the Deaf
National Association of Development Organizations
National Consumer Law Center on behalf of its low-income clients
National Grange of the Order of Patrons of Husbandry
Northern Virginia Resource Center for Deaf and Hard of Hearing Persons
Self Help for Hard of Hearing People
Telecommunications for the Deaf, Inc.
Telecommunications Research and Action Center
The Arc of the United States
United Cerebral Palsy
World Institute on Disability

Attachment: Joint Commenters

The **Alliance for Public Technology** is a nonprofit organization comprised of public interest groups and individuals that has been highlighting the need for ubiquitous deployment of advanced telecommunications services throughout our nation since 1989.

The **Alliance for Technology Access** is a network of community-based resource centers, developers, vendors and associates dedicated to providing information and support services to children and adults with disabilities, and increasing their use of standard, assistive, and information technologies.

The **American Association of People with Disabilities** (AAPD) is the largest, most diverse cross-disability membership organization in the U.S. With more than 85,000 members, AAPD's mission is political and economic empowerment of all children and adults with disabilities in the U.S.

The **American Corn Growers Association** (ACGA) is America's leading progressive commodity association, representing the interests of corn producers in 35 states. The ACGA works tirelessly to enhance farm income and protect rural communities.

The **American Federation of Labor-Congress of Industrial Organizations** (AFL-CIO) is the voluntary federation of America's unions, representing more than 13 million working women and men nationwide. The AFL-CIO's mission is to bring social and economic justice to our nation by enabling working people to have a voice on the job, in government, in a changing global economy and in their communities.

The **American Foundation for the Blind** is a national nonprofit whose mission is to ensure that the ten million Americans who are blind or visually impaired enjoy the same rights and opportunities as other citizens.

The **Association of Tech Act Projects** is a national, member-based organization comprised of state assistive technology projects, funded under the Assistive Technology Act, whose mission is to collaborate with persons with disabilities and others at the national level to increase the availability and utilization of assistive technology devices and services for all individuals with disabilities in the United States and territories.

Communications Workers of America represents more than 700,000 employees in telecommunications, publishing, broadcasting, manufacturing, health care, state and local government, and other public and private organizations.

Community Action Partnership is a national forum for policy on poverty that works to strengthen, promote, represent and serve its network of member agencies to assure that the issues of the poor are effectively heard and addressed.

Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN) serves as the national coalition of organizations representing the interests of deaf and/or hard of hearing citizens in public policy and legislative issues relating to rights, quality of life, equal access, and self-representation. DHHCAN also provides a forum for proactive discussion on issues of importance and movement toward universal, barrier-free access with emphasis on quality, certification, and standards.

Delta State University Center for Community and Economic Development partners with regional organizations and communities in the Mississippi Delta and brings

businesses, citizens, educational leaders, public officials, institutions of higher education, and faculty together to develop innovative solutions to the region's problems.

The **Department for Professional Employees** is a coalition of 25 national unions affiliated with the AFL-CIO which represent over four million highly skilled, white-collar employees, including professionals in over three hundred separate and distinct occupations in many sectors.

EDUCAUSE is a nonprofit association whose mission is to advance higher education by promoting the intelligent use of information technology.

The **Gray Panthers** is a national organization of intergenerational activists fighting for social and economic justice. Founded in 1970 by Maggie Kuhn, Gray Panthers is Age and Youth in action.

Justice and Witness Ministries is a covenanted ministry of the United Church of Christ called to public witness, policy advocacy, issue education and grassroots empowerment to build a more just and inclusive world.

The **Institute for the Study of Politics and Media at California State University, Sacramento** serves as a focal point for symposia and colloquia on interdisciplinary discussions on the role of media in society and government.

The **Latino Education Project** is an advocacy organization in Corpus Christi, Texas that encourages and sponsors computer training for older Hispanics.

MAAC Project is a 39-year-old multi-purpose social service agency whose mission is to promote self-sufficiency among the disadvantaged residents of San Diego County.

The **National Association of the Deaf** is the oldest and largest consumer-based national advocacy organization safeguarding the civil and accessibility rights of 28 million deaf and hard of hearing individuals in the United States of America. The mission of the National Association of the Deaf is to promote, protect, and preserve the rights and quality of life of deaf and hard of hearing individuals in the United States of America.

The **National Association of Development Organizations** provides training, information and representation for regional development organizations in small metropolitan and rural America. It is the largest and leading advocate for a regional approach to community, economic and rural development.

The **National Consumer Law Center** is a non-profit organization with a more than 30-year history of advocating for economic justice in the marketplace on behalf of low-income consumers.

The **National Grange of the Order of Patrons of Husbandry** is the nation's oldest general farm and rural public interest organization. Founded in 1867, the National Grange today has 300,000 members affiliated with 3,000 local, county and state Grange chapters that work to promote the welfare of rural America.

The **Northern Virginia Resource Center for Deaf and Hard of Hearing Persons** serves an estimated 180,500 deaf and hard of hearing persons in the Northern Virginia metro area. Its mission is to empower deaf and hard of hearing individuals and their families through education, advocacy and community involvement.

Self Help for Hard of Hearing People is the nation's foremost consumer organization representing people with hearing loss, whose mission is to open the world of

communication to people with hearing loss through information, education, advocacy, and support.

Telecommunications for the Deaf, Inc. is a national advocacy organization that seeks to promote equal access issues in telecommunications and media for the 28 million Americans who are deaf, hard-of-hearing, late-deafened, or deaf-blind so that they may attain the opportunities and benefits of the telecommunications revolution to which they are entitled.

The **Telecommunications Research and Action Center** is a non-profit membership organization based in Washington, DC that promotes the interests of residential telecommunications customers. TRAC staff researches telecommunications issues and publishes rate comparisons to help consumers make informed decisions regarding their long distance and local phone service options.

The Arc of the United States is the leading national organization working with and on behalf of people with mental retardation and related developmental disabilities and their families. The Arc is devoted to promoting and improving supports and services and also fosters research and education regarding the prevention of mental retardation in infants and young children.

United Cerebral Palsy is the leading source of information on cerebral palsy and is a pivotal advocate for the rights of persons with any disability and for families with members with disabilities. UCP's mission is to advance the independence, productivity and full citizenship of people with disabilities through an affiliate network.

The **World Institute on Disability** is a nonprofit research, training and public policy center promoting the civil rights and the full societal inclusion of people with disabilities.